

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-173—sSB 152

Judiciary Committee

Human Services Committee

AN ACT CONCERNING COURT SUPPORT SERVICES

SUMMARY: This act makes a number of unrelated changes regarding the Judicial Branch's Court Support Services Division (CSSD) and Judicial Branch employees and programs. It:

1. requires the Department of Children and Families (DCF) to disclose certain information to CSSD to help it determine and provide appropriate supervision and treatment for a child or youth;
2. expands the circumstances in which probate court judges and employees can access juvenile matters records and specifies that they may also be disclosed if the law requires it;
3. allows (a) the Judicial Branch to enter into a central computer system any order or process to take a child into custody, (b) a child to be taken into custody based on an order in the system, and (c) certain disclosures of information about children subject to such an order;
4. gives the Department of Correction (DOC) and certain Division of Criminal Justice employees access to information in alternative sentencing and community release plans;
5. expands the crime of criminal violation of a protective order to include violating a protective order a court issued in sentencing a person to probation; and
6. gives the court an additional program option for first-time participants in the pretrial drug education and community service program.

EFFECTIVE DATE: October 1, 2014

§ 1 — DCF DISCLOSURES TO CSSD ABOUT CHILDREN OR YOUTH

The act requires DCF to disclose to CSSD, without a subject's consent, certain information to help CSSD determine and provide for a child's or youth's supervision and treatment needs. The disclosures relate to records of DCF's child protection activities or other activities related to children in DCF's care and custody, including information in the abuse and neglect registry. But the act allows disclosure only of information identifying the child or youth or an immediate family member as being or having been (1) committed to DCF custody as a delinquent, (2) under DCF supervision, or (3) enrolled in DCF voluntary services.

Generally, DCF records are confidential but can be disclosed (1) with the consent of the subject or (2) without such consent and for certain purposes to a

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guardian ad litem or attorney representing a child or youth in litigation affecting the child's or youth's best interests, certain foster or prospective adoptive parents, and various agencies and officials for specific purposes.

§ 2 — DISCLOSURE OF JUVENILE MATTERS RECORDS

The act expands when probate court judges and employees can obtain access to records of juvenile matters.

Previously, for nondelinquency juvenile matters, a probate court could access records related to (1) a contested case about a minor's guardianship or termination of parental rights that the probate court transferred to Superior Court or (2) an appeal from the probate court to the Superior Court. The act instead allows probate court judges and employees access to any nondelinquency records when required to perform their duties. Nondelinquency matters include cases involving:

1. uncared for, neglected, or abandoned children and youth and related adoptions;
2. termination of parental rights of parents of children committed to state agencies;
3. families with service needs;
4. contested matters of termination of parental rights or removal of guardians transferred from probate courts;
5. emancipation of minors; and
6. appeals from probate courts on adoption, termination of parental rights, or removal of a parent or guardian.

The act also gives probate court judges and employees access to juvenile delinquency records when required to perform their duties. Under existing law, access to juvenile delinquency records is permitted, under certain conditions, to various entities, including attorneys representing a child or youth, a child's or youth's parent or guardian until the age of majority or emancipation, certain government officials and agencies, certain courts, and the subject of the record.

The act specifies that the provisions governing disclosure and confidentiality of juvenile records do not prohibit a party from making a timely:

1. objection to the admissibility of one of these records, or any part of one, in a superior or probate court proceeding or
2. motion to seal one of these records under superior or probate court rules.

PA 14-104 contains identical provisions.

§§ 2 & 4 — CENTRAL DATABASE OF ORDERS TO TAKE CHILDREN INTO CUSTODY

The act authorizes the Judicial Branch to enter into a central computer system court orders to take a child into custody. The act makes the entry in the system prima facie evidence of the order or process and allows the child to be arrested or taken into custody based on it. The child must be held in a juvenile detention center if the order or process directs his or her detention.

The act allows disclosure of information about a child subject to such an order or process to Judicial Branch employees and authorized agents, law enforcement

agencies, and DCF.

The chief court administrator must adopt policies and procedures to enter orders and processes into the computer system and disclose information about children subject to them.

§ 3 — ACCESS TO ALTERNATIVE SENTENCING OR COMMUNITY RELEASE PLANS

The act gives access to information in alternative sentencing and community release plans (see BACKGROUND) to (1) DOC employees and (2) Division of Criminal Justice employees assigned to the court location where (a) the court ordered a probation officer to complete an alternative sentencing plan or (b) a sentencing modification hearing will be held under a community release plan.

Under existing law, this information is available to:

1. Judicial Branch employees who require access to the information in performing their duties,
2. state and federal employees and authorized agents involved in designing and delivering treatment services to the person who is the plan's subject,
3. state or community-based agency employees providing services directly to the person, and
4. an attorney representing the person in any proceeding where the plan is relevant.

§ 5 — VIOLATING PROTECTIVE ORDERS

The act expands the crime of criminal violation of a protective order to include violation of a protective order issued by a court when sentencing a person to a period of probation. This crime already applies to violations of protective orders (1) in family violence cases; (2) in stalking, harassment, sexual assault, and risk of injury cases; and (3) related to witness harassment.

Under existing law, this crime is a class D felony (PA 14-217, § 123, increases the penalty to a class C felony on January 1, 2015 if the crime involves (1) imposing any restraint on the person or liberty of a person in violation of the order or (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking a person in violation of the order (see Table on Penalties)).

§§ 6-8 — PRETRIAL DRUG EDUCATION AND COMMUNITY SERVICE PROGRAM

Prior law required first-time program participants to attend a 15-week drug education program. The act gives the court the option, based on a Department of Mental Health and Addiction Services (DMHAS) evaluation and determination, to instead require a participant to attend a substance abuse treatment program consisting of at least 15 sessions. By law, the court (1) has these same options for those participating for the second time, based on DMHAS' evaluation, and (2) must refer a third-time participant to a state licensed substance abuse program for evaluation and participation in treatment as ordered by the court.

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By law, this program is for people charged with drug possession or paraphernalia crimes who meet certain eligibility criteria. If the court grants participation, it must suspend prosecution and dismiss the charges if the person successfully completes the program. A participant who fails to complete the program and is not reinstated must stand trial.

The act also makes technical and conforming changes.

BACKGROUND

Alternative Sentencing and Community Release Plans

By law, probation officers:

1. must complete alternative sentencing plans if ordered by the court for someone who enters a plea agreement for up to two years in prison and
2. may develop community release plans for people sentenced to prison terms of up to two years who have (a) served at least 90 days in prison and (b) complied with prison rules and necessary treatment programs. Probation officers must apply for a sentence modification hearing if they develop such a plan.

OLR Tracking: CR:JO:PF:am